

Bryant (TN)	Hilleary	Morella
Bunning	Hobson	Myrick
Burr	Hoekstra	Neal
Buyer	Hoke	Nethercutt
Calvert	Horn	Neumann
Canady	Hostettler	Norwood
Cardin	Houghton	Nussle
Castle	Hoyer	Owens
Chabot	Hutchinson	Oxley
Chambliss	Hyde	Packard
Christensen	Inglis	Pallone
Clinger	Johnson (CT)	Paxon
Coble	Johnson (SD)	Porter
Collins (GA)	Johnston	Portman
Cox	Jones	Pryce
Coyne	Kaptur	Quinn
Cunningham	Kasich	Radanovich
Davis	Kennelly	Ramstad
Deal	Kim	Regula
DeLauro	King	Rivers
DeLay	Kingston	Rohrabacher
Deutsch	Klecza	Ros-Lehtinen
Diaz-Balart	Knollenberg	Roukema
Dickey	Kolbe	Royce
Dixon	LaFalce	Sanford
Doggett	Lantos	Sawyer
Dornan	Largent	Saxton
Dreier	Latham	Schiff
Ehlers	LaTourette	Schumer
Ehrlich	Lazio	Sensenbrenner
English	Leach	Shadegg
Eshoo	Lewis (CA)	Shaw
Everett	Lewis (KY)	Shays
Ewing	Lightfoot	Skeen
Fawell	Linder	Smith (MI)
Flanagan	Livingston	Smith (NJ)
Ford	LoBiondo	Smith (TX)
Fowler	Longley	Talent
Fox	Lowey	Taylor (NC)
Frank (MA)	Lucas	Thomas
Franks (NJ)	Luther	Torkildsen
Frelinghuysen	Maloney	Torricelli
Gallely	Manton	Upton
Ganske	Manzullo	Waldholtz
Gekas	Markey	Walker
Gibbons	Martini	Wamp
Gilchrest	McCollum	Ward
Gillmor	McCrery	Watts (OK)
Goodlatte	McDade	Weldon (FL)
Goodling	McHale	Weldon (PA)
Goss	McKeon	Weller
Greenwood	McNulty	White
Gunderson	Meyers	Wolf
Hansen	Mfume	Wyden
Hastert	Mica	Yates
Hayworth	Miller (FL)	Young (FL)
Hefley	Molinar	Zeliff
Heineman	Moran	Zimmer

ANSWERED "PRESENT"—3

Collins (IL)	Reynolds	Rush
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NOT VOTING—5

Brown (FL)	Frost	Solomon
Flake	Hastings (WA)	

□ 1340

Mr. MARKEY, Ms. RIVERS, and Messrs. PALLONE, MANZULLO, and FRANK of Massachusetts changed their vote from "aye" to "no."

Ms. McKINNEY, Mr. FRANKS of Connecticut, Mr. DURBIN, Ms. HARMAN, Mr. GONZALEZ, Ms. MCCARTHY, Ms. DUNN of Washington, and Mr. OLIVER changed their vote from "no" to "aye."

Mr. REYNOLDS changed his vote from "aye" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, because of an unavoidable detainment on the way from the White House, I missed rollcall vote no. 101. Had I been present, I would have voted "yes."

□ 1340

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

"(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Internal Revenue Service."

Mr. TRAFICANT. Mr. Chairman, I want this amendment to be understood. I want it to be debated.

The House has evidently reviewed behavior. I want all the Members in the back to hear this amendment, and I want your vote. The American people want your vote.

Evidently, we have discussed conditions under which some of us may, in fact, in some areas support the bill and in other areas where Congress has some significant reservations.

My amendment is not reactive. My amendment is strictly prevention. Now, I would like to urge the Members of Congress to consider that an ounce of prevention is worth a whole pound of cure.

My amendment states that this section shall not apply with respect to a search or seizure carried out by the Internal Revenue Service.

Ladies and gentlemen, we have an Internal Revenue Service that has taken license and has, in fact, intruded the kitchens and the family rooms of the American people on many cases. Those cases are now legendary.

In the matter of Alex and Kay Council of North Carolina, their accountant advised them under a windfall profit they made on the sale of a business that there was a legitimate tax shelter for a specific investment; they took it. The IRS found difficulty and ruled that the tax shelter was not allowed.

And the case was finally adjudicated, the notice of deficiency was sent to the wrong address. The IRS said they have no bounds by the Congress of the United States to prove they made a proper notice.

In the case of Alex and Kay Council, Alex Council, completely frustrated, finding no other ways to fight this large agency that he reported to that was out of control, took his life and left instructions how his life insurance policy will allow for, in fact, that death benefit on his suicide, and how she could apply that insurance policy, that life insurance policy, to fight the Internal Revenue Service, and she did.

It has come to the point where the Internal Revenue Service is certainly charged with an important task by our Government, Mr. Chairman, but Congress, through a lack of oversight, has allowed this agency to become a little intrusive, even to the point where they enjoy the only exemption under the burden-of-proof statutes of the Bill of Rights which I want to commend the majority party for giving an oppor-

tunity for a hearing for that in the future.

My amendment basically says, "Look, the IRS has so much intrusive power now that to give any more further license would be not in good conscience of the Congress of the United States of America," understanding the legendary behavior of this agency.

□ 1350

Now I am not talking about FBI, DEA, ATF, that I recommend to the Congress that all those agencies be put up under one. There is no coordination, as a former sheriff, there is no, or very little, coordination of them anyway. I would not be surprised to have the CIA and DEA thrown up under the FBI, too, with an international section.

But I am not talking about that now. I am talking about a taxpayer who is at the mercy, some of them have taken their own lives, and Congress has been silent for too long.

Now, yes, we have taken these technicalities and these pursuits of criminals, and we have weighed them heavily on the side of the criminals, and there is a debate in this House that perhaps was long overdue regardless of how you will vote on this issue.

But what the Trafficant amendment says is this is not normal business, even under this particular law that is being debated.

If we continue to open up and give more license to an agency that has already turned their back on the Congress, I believe we will fail each and every one of our constituents here today. I do not know how many of your constituents are going to have their door kicked in or are going to be blown up in Waco, TX, and I certainly do not like that, and I agree there should be a hearing on what happened to the Weaver family in Idaho and what happened out there in Waco.

The CHAIRMAN pro tempore (Mr. BURTON). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 4 additional minutes.)

Mr. TRAFICANT. But what I am talking to you about today is your mother, your father, your grandparents, your children, your neighbor, your mailman, the truck drivers, the clearly, and every business, big or small, in your district. Every American that is afraid, and even afraid to say they are afraid, for every American who has been intimidated in some back room, it is legendary.

So I am not here today citing abuses, and I am not taking off on the IRS. What I am saying to you, though, is there is a reasonable level of prevention that is necessary when you establish law. And there is a prevention element that necessitates this amendment.

I am asking for your vote. The American people are looking for some support from the Congress of the United States, and the American people in poll

after poll say they cannot recognize and understand or fathom the thought of Members of Congress wanting to be anonymous, having made the statement that, "It does not pay to go after the IRS." If you are a Federal judge, why should you? That is a lifetime job. Why get the IRS mad?

"If you are a Member of the Congress, why get the IRS mad?" Well, damn it, let me tell you the way it is: I am mad as hell. I am prepared not to stand for it any longer, and I think every one of your constituents feels that way. And I think there are some justifiable reasons to vote for this amendment.

So I am asking the gentleman from West Virginia, the gentlemen from Connecticut and Vermont, the gentleman from Colorado, the general, the gentleman from California [Mr. CONDIT], the gentleman from Florida [Mr. MCCOLLUM], the gentleman from Illinois [Mr. HYDE]—because you can stand up and probably muster up enough partisan votes to defeat this—I am asking you not to do that and to make a sincere effort to keep this amendment in conference. I believe the American people deserve this.

The IRS has taken too much license with regulations that they have turned their back on already.

So with that, I am going to ask this House to give a vote of affirmation. I want to place on the record through the legislative history that I do not want it to be just an exercise on the floor of Congress, that I do want a commitment on the vote of this Congress, if it is an affirmation that, as a tenacious bulldog, we will save that amendment and keep it in that final law if in fact this becomes final law. No reason to obstruct; that is not my purpose. I believe it makes good sense. I urge the Members of the Congress of the United States to do what is right today and to vote for this amendment.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I must reluctantly oppose today this amendment offered by the gentleman from Ohio.

The reason why is not because I do not think there are problems with IRS abuses. The Internal Revenue Service is well known to have had its share of those abuses. I am not here to debate the merits or not of that question.

But I oppose this amendment because I think, just as on the previous amendment offered here on the floor, there is a great deal of misconception about what the effects of the proposed bill and the law changes that we are offering in this bill that underlies the debate today does and does not do.

I do not believe that there is any sense whatsoever in making exceptions for one Federal law enforcement agency or another in respect to what we are doing today that would make any difference at all in the conduct of how they carry out their business.

In fact, the very point and essence of a lot of debate over this exclusionary

rule exception is to make clear that there is absolutely no change in the constitutional requirements that say that we shall not engage in any unlawful search and seizures if we are police of any type; there is nothing in this legislation today that is a bit of a retreat from that, no relaxation of the general principle of excluding from evidence anything where a police officer, knowingly or by anybody's objectively reasonable test of that, as a judge in a court decides that they violated the Constitution in their proceedings and in their actions.

The whole point of this today is to say, "Look, if you have done a search, whether it is with a warrant or without a warrant, and you with a reasonable belief really believe, Mr. Police Officer of any type, that what you were doing was legitimate and not a violation of someone's constitutional rights, if you believe you followed all the steps in the rules and you got a warrant and you thought the warrant was good and the warrant was necessitated or you thought that you were making a search because on its plain face that that search was authorized by the clear precedents of the law in cases where warrants are not required under the fourth amendment of the Constitution, if you really, according to the judge's view in a case when he is deciding whether to admit evidence or exclude it, if he says you exercised a reasonably objective belief that what you were doing was right," then why exclude the evidence? Why exclude the evidence, whether that evidence is gathered by the Federal Bureau of Investigation or the IRS or the Drug Enforcement Administration or anybody else?

Everybody should be treated the same. The evidence of somebody's crime, if they committed a crime or the evidence that would go before a court or a jury to decide whether a crime has been committed, should be allowed in in every single case if that is valid evidence on the merits of the case itself, and let the court decide the guilt or innocence of somebody unless—unless the exclusion of that evidence would in some way, in some way deter a police officer, IRS officer, a Drug Enforcement Administration officer, FBI officer from doing something he should do. And there is absolutely nothing whatsoever suggested here by what we are doing today that would modify that in any way, that principle.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I would be glad to yield to the chairman, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman from Florida for yielding to me.

Mr. Chairman, I just want to say, implicit in this amendment as well as in the last one, is a denigration of the Federal bench; an assertion that they are incapable of judging whether an acquisition of evidence was in good faith, by an objectively reasonable standard;

or whether the public, the long-suffering, victimized public, is better served by the admission of this evidence of guilt or not.

But to carve out exceptions for various Federal agencies not only is insulting to those agencies—and that may or may not be true, but this is not the place to direct those insults—but it also demeans the bench, the Federal bench. I do not think we should overlook that.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, I believe the gentleman is right. I would concur wholeheartedly.

The whole point of the exercise today in passing this legislation is to give relief to the American public in situations where technicalities have been throwing out evidence where people otherwise should have been given the chance and court should have been given the chance to convict the bad guys.

It is not to try to open the door in any way to reduce or relax the standards of the fourth amendment protections against unlawful search and seizures. It does not do that. What is good for the goose is good for the gander, what is good in one Federal district circuit court should be good in another one in this country. There should be uniformity. There is not presently.

□ 1400

Mr. Chairman, for us to come out and make exceptions for one Federal agency or another is just plain nonsense, so I urge a "no" vote on this amendment. I know it is offered in good faith, but I urge "no" vote.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

Mr. Chairman, I say to the Members, this amendment, the closer you scrutinize it, the more you can get to like it, and I would like to ask my colleagues to look very carefully at this amendment.

Mr. Chairman, the gentleman from Ohio is known for his very strong comments and commentary on the floor, but, if my colleagues examine this amendment, they will begin to see what I see in here, that he is attempting a carve-out on the McCollum bill, H.R. 666.

My first amendment to the bill was an attempt at a codification of a U.S. Supreme Court decision, a very modest one, when we had begun, and they are both working toward the same objective.

Now the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], said that this vote, a vote for this amendment, would denigrate the Federal bench. The Federal bench never gets to hear about these

cases of doors being kicked down or IRS harassing people who are trying to settle their accounts.

Now in my office I have constituents who have been trying to settle their accounts, admittedly delinquent, and if there is somebody here that has never heard of this, I say to them, you can share some of my case load with me. They have been trying to settle their accounts, and they will get a call from the agent at IRS telling them that, if they do not pay in full, immediately, in 30 days, they are going to padlock their dentistry office or they are going to padlock their business, which of course is the only way that they can possibly ever pay back on installments. I have had that repeatedly brought to my attention, so much so that the senior Senator from Michigan has worked with me on hearings in previous Congresses and meetings with IRS officials in our region.

So, on behalf of all African-Americans and working class people who cannot retain a CPA or an attorney, Mr. Chairman, this carve-out to limit this untrammelled authority for an agent to objectively use reasonable good faith when he decides whether he is going to padlock someone or kick their door down is a very late-coming one, and I am sorry that I had not risen to this occasion earlier. The IRS cannot be allowed this kind of activity.

Mr. Chairman, I hope this will spur an investigation in the appropriate committee, and I hope it is the Committee on the Judiciary, but at the same time let us recognize that if BATF can evade this amendment by joining with the FBI or the DEA, would it not be logical that we should extend the carve-outs to those other agencies as well, because if we do not, Alcohol, Tobacco and Firearms will be getting around it by merely cooperating with someone else, including, perhaps, the IRS, perhaps not.

But this amendment on its face, Mr. Chairman, is one that merits our colleagues' support. It speaks to a history of misconduct and wrongdoing, and I think that it is a commendable amendment, and as the ranking member of the Committee on the Judiciary, I am very proud to attach my support to it.

Mr. FIELDS of Louisiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and yield to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from Louisiana [Mr. FIELDS], and I listened to the debate of the distinguished chairman and subcommittee chairman of the Committee on the Judiciary, and I saw that we just passed a pretty much politically charged vote, and I must say the American taxpayers do not have too many powerful lobbyists down here. Most people are afraid of the IRS, and most average Americans are more or less at their mercy.

But there is an incident, just occurred here this past month out in the district of the gentlewoman from California [Ms. ESHOO], and the IRS basically came to the office of one of the dentists in her community and said they were with the IRS, and they wanted to see the doctor. They were asked if the doctor was expecting them, and they said, "No, not at all."

Mr. Chairman, in the midst of the day's business, the dentist office's business, the IRS completely disrupted it, had taken that dentist away from where he is doing significant work on the dental needs of one of his patients. The IRS has almost limitless powers.

There are very few opportunities for the Congress of the United States to lend a helping hand to these taxpayers. So, Mr. Chairman, yes, I could see where a lot of people crossed over and voted on that issue that surrounds guns, but there is just not enough advocates for the American taxpayer, there is no powerful support for the American taxpayer, and that is why I say to my colleagues, to the Congress, that the last center of possible support, the last board of grievance and appeal, is the Congress of the United States of America, and if the Congress of the United States of America can make exception for guns, and the popularity of that issue, and the politics of that issue, then Congress could do the right thing and support this amendment that in fact safeguards the interests of all of our taxpayers, each and every one of them.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to give the same speech I gave the last time, although it would be equally applicable in the context of this amendment. But we are making a mockery of the Constitution, and we just did it again when we passed the last amendment. It is not that the amendment was bad, but now we have got a different standard applying to one law enforcement agency, constitutional standard presumably, than we have applying to all other law enforcement agencies, and I have got nothing against the Internal Revenue Service, but it seems to me that the Internal Revenue Service makes more sense to be exempted than the ATF, or whatever it was called, because there are less circumstances under which they need to go and kick somebody's door in than the other agency.

The point is it is the underlying bill that is the problem here. It is not exempting ATF, or the Internal Revenue Service, or the Immigration and Naturalization Service, or the city of Atlanta, or New York, or the FBI. The standard ought to be the same, and that standard was articulated in 1791 when we passed the first 10 amendments to the Constitution. That is the standard that ought to apply, and that is the problem that we are into here, and that is the reason that we are get-

ting all these inconsistencies, because what we did in 1791 was to make one consistent standard, and what my colleagues on the other side are trying to do is to get at the bad guys.

□ 1410

Well, who are the bad guys?

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Ohio.

Mr. TRAFICANT. With that, let me say the gentleman makes a point about bad guys, and this bill is targeted toward bad guys. Keep in mind that much of the activity covered by this amendment covers civil procedures. They are not coming for bad guys. They are using an awful lot of law and a lot of leniency under that law in civil proceedings, and many times the burden of proof is even on the taxpayer to prove they are innocent.

This is an unbelievable tenet of opposition. Clearly if there is an exception, it should deal with the preponderance of the facts that the civil proceedings involved here are clearly outside of the view of what the main thrust of this bill deals with. You are concerned about criminals. We are talking about license in civil process. I think that goes too far, which leads to a rational for support for the amendment.

Mr. WATT of North Carolina. Mr. Chairman, reclaiming my time, the gentleman makes the very point that I am trying to make. This is not about bad guys and good guys. What we do when we subvert the Constitution of the United States to try to get some bad guys is that we subvert the Constitution of the United States for the good guys also. We cannot afford to do that. The rules cannot be different for one group and another group, because then we have to decide which one falls into each of those groups.

Mr. Chairman, I want to call upon my colleagues to withdraw this bad bill. Bet us out of this pointing of fingers and talking about who is bad and who is good. All of the American citizens are good, until the law says they are bad. We cannot let the police officers on the street make that determination, whether they are with the Internal revenue Service, the ATF, the Atlanta police office, the D.C. police office, whatever. This is about the Constitution. This is not about bad guys and good guys.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Traficant amendment. I do want to say and to note that while various agencies such as the BATF are being asked to abide by higher standards, this is not a commentary on the thousands of good, hard-working employees of many of those agencies, the DEA, the FBI, the BATF and the Internal Revenue Service, because indeed there are thousands of well-meaning, hard-working personnel, many of them in the enforcement divisions.

But unfortunately, occasionally you have a bad apple, and that bad apple can spoil the whole barrel and can be the one that brings that agency, despite all the hard work that goes in, can bring that agency and its employees into disrepute.

So what this tries to do and what the fourth amendment tries to do is say we do not want to make it harder for those genuinely doing their work. We also want to make sure there cannot be the occasional abuse, or at least we try to limit it as much as possible.

The distinguished chairman of the full committee, the gentleman from Illinois [Mr. HYDE], pointed to Federal judges as being the safeguard and said why would you denigrate Federal judges? No one is denigrating the Federal judiciary. As the gentleman from Ohio [Mr. TRAFICANT] pointed out, many of these cases do not even get there.

You are trying to devoid those cases getting to the Federal judiciary. You are trying to have the occasional Federal judicial officer have in the back of their mind this is something you don't do, there are sanctions, and it is something prohibited from the beginning in the mental process. So that is one reason.

The second thing is you want to set a standard so you do not get these problems to the judiciary, and that standard is what is trying to be set here. In the case of the IRS there have been occasional abuses. There are a lot of people working hard and doing the processes of raising the revenues of our country the way they should, but there have been occasional abuses. I have one in my district as well that we have worked on for 2 years now.

But you are saying because there can be the chance for the abuse and because it does not handicap the ongoing work of that agency 99 percent of the time, then indeed they should abide by that higher standard. This body has already said there should be a higher standard in the case of BATF. The IRS, which reaches every one of our constituents in some way, needs to have that higher standard, not to denigrate the work of the IRS or the men and women of the IRS, but to say where there are occasionally a few bringing down the reputation of an agency, that will be reined in and this Congress will demand that they abide by that higher standard. That is what this amendment is about, and I would urge its adoption.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to share in the sentiments of the gentleman from North Carolina that it is not a question of this amendment or any exceptions. The problem is the undermining legislation.

Any nation, Mr. Chairman, can fight crime, can secure its streets and its cities, if it is prepared to compromise the rights of its citizens. No totalitarian or authoritarian government

has ever feared the problems of crime on its streets.

But the goal has never been simply to secure the streets. It is also to have its people secure in their homes, and from their government, not just from criminals.

So the United States has always been different. We have sought to protect the innocent while we were prosecuting the guilty. That balance has made the United States unique. It is also now at question.

The underlying legislation, if it means anything, would violate the sanctity of the home, the privacy of the family, the right to have a wall of protection in the front door of your own house between you and the government, to ensure that the only judgment is not the police officer as to whether or not your home should be violated, but a judge issuing a warrant on probable cause. The very Constitution of the United States. And the irony of it is, is that this was one of the motivating factors that led to our own revolution, the insistence on the part of the British Government of breaking down the doors and violating the property rights of our citizens 200 years ago.

But to add insult to injury, now we are creating two different levels of privacy and property rights. If your violation is for tobacco, alcohol, or on guns, your rights will be secured. The BATF will not get in your home, because the gun lobby would have it be so. But if you are a citizen of no particular offense, your wall of privacy is being lowered. What a statement to the American people, and what a violation of the historic trust and commitment of this institution to our constitutional principles.

Mr. Chairman, our Republican colleagues in the last election have had every reason to be proud. They won a tremendous victory. But they did not receive a mandate to change the Constitution of the United States, to rearrange its powers, or to make our people less secure from a government that would abuse their rights.

Mr. Chairman, I cannot claim to ever have been a conservative Member of this House, but I have always respected tenets of Republican philosophy, limited government, power in the hands of people, controlling the excesses of government authority. Allowing a government to enter a home or seize property without warrant, expanding the police powers of the government, is an invitation to abuse.

□ 1420

It is not simply a violation of some of our historic commitments. Ironically, it is a departure from the conservative philosophy of the very Members who have now won electoral control of this institution.

Mr. Chairman, our leaders may have failed us in protecting us in recent years from crime and the problems of our country, but it is our leaders who have failed, not our Constitution. If the

country is in need, it is our leaders who should change, not our Constitution.

Because if, my colleagues, we succeed in defeating crime on the streets at the cost of criminal activity by our government, then we have achieved nothing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. CONYERS. Mr. Chairman, I withdraw my point of order and my demand for a recorded vote.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. FIELDS of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Louisiana: Page 2, line 10, after "United States" insert "if the evidence was obtained in accordance with the fourth amendment to the Constitution of the United States".

Mr. FIELDS of Louisiana. Mr. Chairman, yesterday we debated for some time the Watt-Fields amendment as it relates to the fourth amendment of the Constitution. This amendment is similar to that amendment, but, Mr. Chairman, I want to make a couple of comments about the amendment before I proceed.

First of all, under the fourth amendment of the Constitution, it says in no uncertain terms that "the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated."

It does not say "should not be violated" or "ought not be violated." It says in no uncertain terms that it "shall not be violated."

The fourth amendment to the Constitution further states, Mr. Chairman, that no warrant, not some warrants, not two or three warrants, but it says "no warrant shall," again, the Constitution deals with not the permissive language but the mandatory language, "shall issue but upon probable cause supported by an oath of affirmation and particularly describing the place to be searched and the persons or things to be seized."

Now, I did a little further research, Mr. Chairman, and Members, to get a good understanding of what shall actually means. According to the Webster dictionary, shall is very simple. Shall means will have to. Shall means must. Shall means used in laws to express what is mandatory.

So I rise today, Mr. Chairman, to suggest to the House that this amendment is a very basic amendment. It

simply says that any evidence obtained "in accordance with the fourth amendment of the Constitution."

If we are going to pass this legislation and allow law enforcement officers to go out into the world and break down people's homes without a warrant and say, I am operating with reasonable expectations or reasonable belief that there is something wrong taking place in the household, then we shoot a big bullet in the center of the fourth amendment to the Constitution. Not only that, Mr. Chairman, we basically silence the fourth amendment of the Constitution.

So if Members support the fourth amendment of the Constitution, and I think we all do, because we all by law, when we took the oath of office, said we would, we would support this amendment. It is a very simple amendment. If we want someone, a law enforcement officer, to be able to walk into our constituent's home by breaking down the doors, showing, flashing his or her badge or badges and saying, I am the law enforcement officer of this particular city, move over, I am going to search all of your personal effects, then vote against this amendment. It is very simple. Nothing complicated about it, nothing difficult about it.

But if Members want that law enforcement officer to go to a judge which is clothed with the responsibility of looking at the probable cause to see if there is enough evidence to support a warrant to be issued to search a person's home, then vote for this amendment. It is a very simple amendment, nothing complicated about it.

If we want to go back to the western days, where people break down doors and take people's assets and nothing is done about it, then I would suggest that Members not vote for this amendment.

Let me make another point, Mr. Chairman. Someone made the statement that, well, if someone breaks in a person's home and they find no evidence and they have not violated any law, then no harm is done. I beg to differ with my colleagues on that.

There is a lot of harm that is being done when you break down a person's home and go through all their personal effects, finding evidence or not finding evidence. You have violated somebody's right to privacy. That is one of the most sacred amendments to this Constitution. And to allow law enforcement officers to do that and then exempt one or two agencies to me is asinine, unconscionable, unbelievable, to say the least.

So I would certainly urge my colleagues, in the interest of justice and fair play, please, the worst thing we want to do this session of Congress is to violate our own contract, our own Constitution, the one we held our hands up before the American people and said we will uphold. This bill destroys the fourth amendment of the Constitution. There is no question about that.

I want to be able to leave this institution, leave this Congress and go home tonight and have a sense of security in my own home and not worry about some Rambo cop busting down the door and saying this Congress gave them the right to do it. That is wrong. There is not a Member on this side or the other side that can argue the fact that this amendment does not do that.

Now, they may argue, well, if it is unconstitutional, the courts will hold it to be unconstitutional. Why would we pass a law that we know good and well is unconstitutional. Why would we even opine the thought that the American people ought not have the rights that are afforded them under the Constitution of the United States of America.

I beg of my colleagues on the other side of the aisle, if they really want to do something to secure people in their homes, yes, we have a crime problem in America. There is no question about it. There is a crime problem in my own district, in my own State, but it is not to the extent that we ought to take away people's individual constitutional rights.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the gentleman is onto something we all would agree with in principle, but I think how he has crafted this amendment makes it fatally defective or at least it makes it ambiguous enough that this side cannot accept it.

What I have stated in the past and did yesterday to the gentleman from Louisiana as well as to others is that I would have no problem accepting and our side would have no problem accepting what was printed in the RECORD as amendment No. 1 by the gentleman from Michigan [Mr. CONYERS] that would read at the end of the bill "nothing in this section shall be construed so as to violate the fourth article of the amendments to the Constitution of the United States."

That would be perfectly acceptable. This particular amendment being placed where it is in the context of the lines that read, evidence which was obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States, and then with these words "if the evidence was obtained in accordance with the fourth amendment of the Constitution of the United States," and then goes on and on and on and leaves the clear implication that there can be no exclusionary rule because the very nature of the rule is to apply in situations where there has been a violation of the fourth amendment.

That is why we need it. That is why we need a good faith exception to this whole process.

It would in essence nullify the good faith exception in warrant cases, in my judgment.

□ 1430

We would have an exclusionary rule that excluded it clearly from day one,

and there would be no exceptions to it. One could go on and read the rest of it, since it is placed in the middle of it and nothing is stricken, as saying that it is then further modified. But I would suggest that the fact that there was such ambiguity here, courts could interpret this any number of ways, that it makes no sense to posture this in the location the gentleman from Louisiana [Mr. FIELDS] that I presume in good conscience is attempting to do.

I do not understand why we do not offer the original language of the gentleman from Michigan [Mr. CONYERS] if the gentleman wants to do that, at the end of the legislation where he places it that does what I think the gentleman wants us to do.

Mr. Chairman, I would suggest that this amendment be withdrawn and that the other one be substituted in its place, but I am not going to offer anything out here today to do it. I am going to oppose this amendment in its present form, but I would accept, as I say, the words "Nothing in this section shall be construed so as to violate the fourth article of amendment of the Constitution of the United States" if it were offered at the end of the bill, as the gentleman from Michigan [Mr. CONYERS] does in what he printed in the RECORD a few days ago.

Without that, Mr. Chairman, I just think the gentleman created an ambiguity that could defeat the whole good faith language that the courts already adopted for warrant searches, searches with warrants, as well as searches without them. For that reason, Mr. Chairman, I am opposed to the amendment.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, almost 24 hours ago I stood in the well of this House and I talked about an amendment that would take us back to the fourth amendment to the Constitution. Colleagues on the other side said "No, we cannot support you, because you strike the rest of our bill out. If you would just craft this in such a way that you did not strike the rest of the bill, this would be acceptable to us."

They voted against the wording of the fourth amendment to the U.S. Constitution.

Mr. Chairman, almost 24 hours later, we are back here having essentially the same debate, different language. This language does not strike one word out of the underlying bill. All it says is it is going to be subject to the fourth amendment to the U.S. Constitution.

However, again, my colleagues are back saying "Oh, no, picky, picky, picky. I can't agree with that either, it has to be drafted some other way."

Mr. Chairman, this is an open rule we are operating under, they say. Anybody who wants to come in and offer an amendment can offer an amendment to

say whatever they wanted to say. Yet, my colleagues on the other side say "Oh, no, you have not been able to draft it in such a way that is satisfactory to us yet. There is some language out there somewhere that will satisfy us," but 24 hours almost has passed and they have not drafted it. All they want to do is come back in and say "Oh, no, your language is not good enough."

Mr. Chairman, Madison and Webster drafted the language of the fourth amendment, or whoever the Founding Fathers were who were working on that particular portion of it. I wish that these new masters of the Constitution, these master draftspersons who drafted this artistic Contract With America, would draft some language that would be satisfactory to them, that would not trample on the Founding Fathers' language.

It is not doing my constituents or the American people any good to say "Oh, no, this is not good enough, we need a comma here or a period there, or a T crossed here or an I dotted there." If they believe in the Constitution, draft the language, give it to us. I invited them to do it yesterday. I have not seen it yet.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, the language I do not have to draft. I read it to the gentleman, and it is printed in the CONGRESSIONAL RECORD.

Mr. WATT of North Carolina. Mr. Chairman, I would say to the gentleman, offer it. I reclaim my time, Mr. Chairman.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, I will do it.

Mr. WATT of North Carolina. If the gentleman offers it, if he votes this one down, let him offer some amendment that will make this constitutional, and then maybe we can talk about supporting it, Mr. Chairman.

However, do not come in here and say "Oh, no, yesterday you struck the rest of my bill." This does not strike one iota of his bill, yet it is still not satisfactory to him. If he wants something, draft it and put it in and let us talk about it. That is what this House is all about. That is what we came here for. But do not be picayune with me.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I also rise in vehement opposition to H.R. 666, the exclusionary rule, and urge my colleagues to reject such a blatant attempt to eradicate one of the most fundamental constitutional protections afforded all Americans, the prohibition against unreasonable searches and seizures by the

Government that is so precisely spelled out in our fourth amendment.

This misguided bill highlights the GOP's disconnect with the American people, and it is just one more example that the leadership's so-called contract is, to borrow a phrase from well-known cereal advertisers, chock full of nuts.

Under this bill, as astonishing and unbelievable as it may seem, evidence that is illegally obtained by law enforcement officials without the aid of a search warrant would be admissible in Federal trial proceedings.

If this not a complete and total affront to both the spirit and intent of the founding document of our great democracy, I do not know what is.

Let me give the Members an example of what I am talking about. About a year or so ago in my district the BATF and some local law enforcement officials entered into some HUD-owned Chicago Housing Authority property in my district in the city of Chicago and knocked down the doors. They said they were looking for guns.

What happened as a result of that? They found a number of assault weapons that they were looking for, but in addition to that, they went into the homes of a number of people, and they did not find any weapons there. What they found instead was terrified children.

Imagine, here you are in your home, little kids running around in there, somebody comes in and knocks on your door, bursts their way in with "ATF" on the back, with "Chicago Police" on their shoulders, et cetera, guns all ready to be drawn, little kids sitting there screaming, and law enforcement officers are running through people's houses, ransacking through their dresser drawers, through their closets, up under their beds and anyplace else they thought there might be a weapon to be found.

Mr. Chairman, this is a tremendous amount of terror that you can give anybody, but particularly to young children. To have this kind of thing happen without a search warrant, without cause, was beyond all realism whatsoever. I just could not believe it was happening, but it did happen. It happened in my district of Chicago.

Mr. Chairman, we are talking about a crime bill here, yes, but we are also talking about crimes that the Federal Government and others can perpetrate on people. It is not right for the police to do that. It is not right for the IRS to do that. It is not right for agencies to do that.

If it is a crime, it is a crime for them to commit a crime as well, without probable cause.

Mr. Chairman, the U.S. Supreme Court has continually and consistently refused to adopt such sweeping exceptions to the exclusionary rule as those that are embodied in this legislation before us today.

H.R. 666 would not only render the exclusionary rule, and therefore, the most basic rights of all of our citizens,

moot, but also provide a disincentive for police officers to follow the dictates of the law.

By allowing courts to admit evidence gathered in the case of warrantless searches, this body would be giving law enforcement officials the mere option of following legal search and seizure requirements or not.

In fact, there would be much less incentive on the part of officers to even obtain warrants, knowing that the courts would be lenient, as far as they are concerned.

As the high court has so eloquently stated, and as so many of my colleagues have so eloquently stated on this floor yesterday and today, a strong exclusionary rule is required to enforce the right of all Americans "to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures."

□ 1440

Sweeping exceptions to this rule would, quoting again the Supreme Court, "permit that right to remain an empty promise," an empty promise.

Mr. Chairman, the absolute last thing I would want to see is our Constitution reduced to an empty promise.

It strikes me as peculiar that the GOP, the Republican majority, will shroud itself in the second amendment as a defense to the weak, tired, worn-out line that all Americans have an unrestricted right to own a deadly arsenal of assault weapons, but then will turn right around and support legislation such as H.R. 666 which so obviously guts the fourth amendment's civil liberties protections upon which all our citizens have come to rely.

Mr. Chairman, it is becoming increasingly clear that my Republican colleagues are quick to invoke the constitutional principles and the wisdom of the Founding Fathers whenever it suits their political whims but completely disregard it when the rights of average Americans like my constituents and like yours, Mr. Chairman, and all the rest of our constituents are at stake, as in this case. This is no way to legislate and the citizens of the country I believe clearly see through this charade.

I would again urge my colleagues to vote no on this turkey, thereby preventing unfounded invasions of privacy and constitutional rights violations against all our constituents. We cannot and simply must not allow this 100-day agenda to undo 200 years of democracy.

AMENDMENT OFFERED BY MR. MCCOLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM as a substitute for the amendment offered by Mr. FIELDS of Louisiana: Page 3, line 12, strike "Rule" and insert "Rules".

Page 3, line 14, after "proceeding," insert "Nothing in this section shall be construed

so as to violate the fourth article of amendments to the Constitution of the United States."

Mr. MCCOLLUM. Mr. Chairman, this does what we said we would do all along if the gentleman from Michigan [Mr. CONYERS] had offered it. It is what he had printed in the RECORD a couple of days ago.

It provides what seems to me to be on its face the clear language that any of us would know is true and, that is, that nothing in this legislation that we are proposing in any way violates the fourth amendment to the Constitution. We have no problem with that. That is all that this amendment says. It does not say anything more, it does not say anything less. It should not be construed as saying anything more or anything less, but it is placed in simple language, it is placed at the end of the bill. It does not mess up the rest of it. It keeps the good faith exception expansion that we want in this bill intact.

Mr. Chairman, I would encourage my colleagues to accept this, I hope the gentleman from Louisiana [Mr. FIELDS] could accept it and we could move on.

Mr. FIELDS of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. Can the gentleman explain what is the difference between the two amendments, because it appears, based on his dissertation, there is no difference between the amendment that I have and the substitute amendment that he just introduced.

Would the gentleman please explain?

Mr. MCCOLLUM. If I can reclaim my time, I would be glad to. There is no real difference in intent. I am sure you intend to do exactly as I have suggested. It is just that where you had placed what you had written could be construed in my judgment and by others over on this side of the aisle in a way that you did not intend, in a way that would actually end, by some court interpretation in the future, those kinds of good-faith exceptions we already have in search warrant cases. I do not think you intended that. If you do it this way, then there is no ambiguity, there is no question for the courts to interpret. It is just a lot cleaner.

That is what I think the gentleman wants and I do not have a problem with what you want to do if that is what you want, as I believe it is.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. I am very appreciative of the accord here. Could this be known as the McCollum-Fields substitute amendment?

Mr. MCCOLLUM. I would be delighted if it were known as the McCollum-Fields-Conyers substitute amendment.

Mr. CONYERS. I did not suggest that.

Mr. MCCOLLUM. Mr. Chairman, the gentleman from Michigan wrote it, so I would be glad to give him credit.

Does anyone else want time? Otherwise, I hope the gentleman would accept this.

Mr. FIELDS of Louisiana. Mr. Chairman, will the gentleman yield further?

Mr. MCCOLLUM. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. I have not had an opportunity to see the amendment, but it is the exact amendment that we had on this side of the aisle?

Mr. MCCOLLUM. Reclaiming my time, it is the exact amendment that was published by your side of the aisle under the name of the gentleman from Michigan [Mr. CONYERS] as amendment No. 1 in the CONGRESSIONAL RECORD of February 6, 1995.

Mr. FIELDS of Louisiana. I thank the gentleman.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I was just looking at the language, and it refers to section rather than bill. There are several sections in this bill, and what I am trying to be clear on is that your language applies to the entire bill, not just to one particular section of the bill.

Mr. MCCOLLUM. Well, this entire bill refers to an entirely new section of the code, section 3510, and I think that that is the key to this and that is what this applies to. That is virtually the entire bill. What we talking about is amendment chapter 223 of title 18 and this is an entirely new section, section 3510, we are creating by this piece of legislation. That is what this applies to, the entire new section.

Mr. WATT of North Carolina. I thank the gentleman for yielding.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that on all subsequent amendments to this one, for the remainder of the bill, there be a time limit of 5 minutes of debate on each side.

The CHAIRMAN. On this amendment and any subsequent amendments thereto?

Mr. SCHUMER. Not on this amendment but on any subsequent amendment.

The CHAIRMAN. And on all amendments thereto?

Mr. SCHUMER. Correct.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] as a substitute for the amendment offered by the gentleman from Louisiana [Mr. FIELDS].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gen-

tleman from Louisiana [Mr. FIELDS], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. SERRANO

Mr. SERRANO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SERRANO: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

"(e) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Immigration and Naturalization Service."

The CHAIRMAN. The gentleman from New York [Mr. SERRANO] will be recognized for 5 minutes on his amendment, and a Member in opposition will be recognized for 5 minutes.

Mr. MCCOLLUM. I claim the time in opposition, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for that purpose.

The Chair recognizes the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we can notice by the amendments that have been submitted here today, there are two issues that are being discussed. One is the belief by many of us that in fact the bill presented by the majority strikes down most if not all of the protections of the fourth amendment. But in addition, some agencies have been singled out by these amendments because they are, unfortunately, agencies with either a reputation of misusing their power or, and in most cases, a reputation of striking fear into the hearts of hard-working, law-abiding American citizens and in many cases, or in most cases, both.

There is no reason that one can imagine why an American citizen or a resident of this country should be afraid of any of its Federal agencies. Yet that is the case in so many instances. That is why today you have seen people discussing so many different agencies.

The INS is, in many neighborhoods in this country, at the top of the list of the kind of an agency that can strike fear into the hearts of people. Because when the INS decides that it has cause to believe that there is illegal immigration taking place or has taken place in a certain neighborhood, the INS does not stop to ask questions and to determine who they should go after and who should be protected under our Constitution. What the INS usually does is walk into a neighborhood where the color of the people's skin or the language they speak appears to indicate that illegal immigrants could be in fact living in that community, and they will tear down a business door, they will tear down a home, they will tear down the privacy of a family or an

individual searching, if you will, searching for illegal immigrants.

We have seen this throughout our communities, most recently in the northern Manhattan section of Washington Heights where reports took place, where bodega owners, grocery store owners were illegally confronted by the Immigration Department in a desire to determine whether or not there were illegal immigrants, undocumented immigrants, in that community.

So for anyone in my community, whether they were born American citizens or not, this Federal agency is one that strikes fear into our hearts. And incidentally, someone may say, "Well, if you've got nothing to hide, you should not be afraid."

□ 1450

That is not the case. If you look like a certain person, if you have the first name of Jose, you can be sure that you will run into the INS at one time in your life and they will not give you any way to explain yourself. They will just ask you some very hard questions.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Michigan.

Mr. CONYERS. If the gentleman will yield, Mr. Chairman, the Government Operations Committee had hearings on the INS in the last Congress with harassed African-American and other minorities and women officers, and the gentleman's amendment and the discussion that surrounds it flows exactly with what we heard. I would refer every Member here to the Government Operations hearings on INS in the 103d Congress. It is a very dangerous instrumentality.

There are a lot of good people. I love the commissioner, the director, but it still is not under control and the gentleman's amendment is very good and I accept it on this side.

Mr. SERRANO. I thank the gentleman very much.

The gentleman's comments obviously fall right to the point that there has been ample proof that this Federal agency has not carried out its duties in a proper way, and when they do not carry them out in a proper way, I think it becomes the role of this body to protect our citizens. I think that is a point that should be made.

In many instances the violation of rights and privileges are committed upon citizens of the United States, the illegal searches, the fear, the attacks, the midnight raids, the middle of the night raids, the lack of respect for individual rights.

If the folks on the other side really believe that their bill is a good bill, and if they believe that they have not in fact trampled, as I believe, on the fourth amendment, there should be no problem in accepting this amendment. This amendment simply will strengthen their belief that the fourth amend-

ment is still intact, and I would urge a "yes" vote on this amendment.

The CHAIRMAN pro tempore (Mr. HOBSON). The gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes in opposition to the amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I cannot accept this amendment. I did not accept the other two amendments that were passed that exempted a whole host of Federal law enforcement officials from the opportunity to have the Federal court exclude evidence that they obtain which may be in violation of the fourth amendment but was obtained without any intent on their part to violate, without any knowledge they were doing it, and with no good reason that I can think of for us to be excluding it from court proceedings where convictions could otherwise be obtained for bad guys and people who have committed major crimes in this country. There is no reason to want to exempt these folks.

We are not doing anything with this bill that would in any way reduce protections individuals have from illegal searches and seizures. We may all be angry at some of these agencies for one reason or another, because they have overstepped their bounds. I do not think there is a single police agency in this country that has not had somebody at some point overstep their bounds in the history of these agencies. It probably has happened more than once for most of them, and in some too frequently, and nobody condones that, not good police, not you, not the President, not the Governors of the States, nobody condones them overstepping the bounds and violating the protection of our citizenry under the fourth amendment.

The question is what is the best way to proceed to correct those problems, and it certainly is not in keeping out evidence of criminals that will prohibit their being convicted when they should be, when the evidence is perfectly good itself.

Why do we want to prohibit somebody from going to jail who has committed a bad crime in the name of stopping something that is not going to be stopped? If a police officer, INS or anybody else does not know they are doing anything wrong and a judge decides that they do not know, and they could not know, and there is no reason for a reasonable person to ever know they did anything wrong, then there is no deterrent whatsoever to the behavior they have done. They are going to do it every time. We need to find other ways to stop it, but the only way we want to stop is where it is antagonizing being done in violation of the Constitution and trampling, and as the Founding Fathers wanted us to do to protect it. It makes no sense to penalize the general public of the United States by allowing more criminals out on the

streets as are now being allowed on technicalities by the situation that exists today.

We need to carve out an exception to the exclusionary rule that is even broader than the courts have accepted today. That is what this bill does. Where a police officer of any type, be he INS or otherwise, acts in good faith and believes, and reasonably and objectively by a judge's decision believes, and is determined to believe that what he is doing is right and correct and not violative of the fourth amendment, and why in the world would anybody want to exclude any evidence? The gentleman has every right to protest INS like others protested other agencies of the Federal Government.

I submit this bill is not the place for that. It does not do us any good and it does damage to the fundamental underlying principle of this bill, this effort to create a better protection of our American citizenry.

I urge a "no" vote.

Mr. SERRANO. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from New York, the author of the amendment.

Mr. SERRANO. With all due respect to the gentleman, the reason for the protection that I try to put forth, a reason that the gentleman may probably never experience or has ever experienced in his life, is the fact that there are some Federal authorities that upon looking at some American citizens determine, assume that that person does not belong in this country, simply by the way they look, simply by their first name or their last name or the fact that they may not have fully mastered the English language. This simply says give me the protection that I deserve as an American citizen.

Mr. MCCOLLUM. If I can reclaim my time, I would simply say to the gentleman no, fortunately I have not had that personal experience. I do not doubt for a moment that goes on but that is not a remedy for that.

What the gentleman is doing makes an exception to this bill of a whole entire agency and their efforts at law enforcement. That makes no sense whatsoever. It undermines the purposes of this bill and it is not in the interests, as far as I am concerned, of the general public where we are trying to get more convictions where somebody commits a crime. And I do not care, if they have committed a crime, we ought to get them convicted and we have the evidence to do it. We have no business excepting an agency, particularly INS, from that, particularly where we have alien smuggling and all kinds of stuff the Immigration Service is having to investigate. I would suggest it is not in the best interest of aliens, legal aliens coming here to have this provision, and those who would be citizens and would make great contributions to this country, it is not in their best interests to allow the criminals in the world to

prey on those who are unfortunately in their midst.

So I urge a rejection of this amendment, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SERRANO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 330, not voting 1, as follows:

[Roll No. 102]

AYES—103

Barrett (WI)	Hastings (FL)	Reynolds
Becerra	Hefner	Richardson
Berman	Hilliard	Rose
Bishop	Hinchey	Roybal-Allard
Bonior	Jackson-Lee	Rush
Boucher	Jefferson	Sabo
Brown (CA)	Johnson, E. B.	Sanders
Brown (FL)	Kennedy (MA)	Schroeder
Bryant (TX)	Kennedy (RI)	Scott
Clay	Kildee	Serrano
Clayton	Levin	Skaggs
Clyburn	Lewis (GA)	Stark
Coleman	Lofgren	Stokes
Collins (IL)	Martinez	Studds
Collins (MI)	Matsui	Thompson
Conyers	McDermott	Thornton
Coyne	McKinney	Torres
DeFazio	Meehan	Torricelli
Dellums	Meek	Towns
Dingell	Menendez	Tucker
Durbin	Mfume	Velazquez
Engel	Miller (CA)	Vento
Evans	Mineta	Visclosky
Farr	Mink	Volkmer
Fattah	Moakley	Ward
Fields (LA)	Mollohan	Waters
Filner	Nadler	Watt (NC)
Flake	Oberstar	Waxman
Foglietta	Obey	Williams
Ford	Olver	Wise
Furse	Owens	Woolsey
Gejdenson	Pastor	Wynn
Gephardt	Payne (NJ)	Yates
Green	Pelosi	
Gutierrez	Rangel	

NOES—330

Abercrombie	Browder	Crapo
Ackerman	Brown (OH)	Cremeans
Allard	Brownback	Cubin
Andrews	Bryant (TN)	Cunningham
Archer	Bunn	Danner
Armey	Bunning	Davis
Bachus	Burr	de la Garza
Baesler	Burton	Deal
Baker (CA)	Buyer	DeLauro
Baker (LA)	Callahan	DeLay
Baldacci	Calvert	Deutsch
Ballenger	Camp	Diaz-Balart
Barcia	Canady	Dickey
Barr	Cardin	Dicks
Barrett (NE)	Castle	Dixon
Bartlett	Chabot	Doggett
Barton	Chambliss	Doolittle
Bass	Chapman	Dornan
Bateman	Chenoweth	Doyle
Beilenson	Christensen	Dreier
Bentsen	Chryslers	Duncan
Bereuter	Clement	Dunn
Bevill	Clinger	Edwards
Bilbray	Coble	Ehlers
Billirakis	Coburn	Ehrlich
Bliley	Collins (GA)	Emerson
Blute	Combest	English
Boehlert	Condit	Ensign
Boehner	Cooley	Eshoo
Bonilla	Costello	Everett
Bono	Cox	Ewing
Borski	Cramer	Fawell
Brewster	Crane	Fazio

Fields (TX)	LaHood	Ramstad
Flanagan	Lantos	Reed
Foley	Largent	Regula
Forbes	Latham	Riggs
Fowler	LaTourette	Rivers
Fox	Laughlin	Roberts
Frank (MA)	Lazio	Roemer
Franks (CT)	Leach	Rogers
Franks (NJ)	Lewis (CA)	Rohrabacher
Frelinghuysen	Lewis (KY)	Ros-Lehtinen
Frisa	Lightfoot	Roth
Frost	Lincoln	Roukema
Funderburk	Linder	Royce
Gallegly	Lipinski	Salmon
Ganske	Livingston	Sanford
Gekas	LoBiondo	Sawyer
Geren	Longley	Saxton
Gibbons	Lowe	Scarborough
Gilchrest	Lucas	Schaefer
Gillmor	Luther	Schiff
Gilman	Maloney	Schumer
Gonzalez	Manton	Seastrand
Goodlatte	Manzullo	Sensenbrenner
Goodling	Markey	Shadegg
Gordon	Martini	Shaw
Goss	Mascara	Shays
Graham	McCarthy	Shuster
Greenwood	McCollum	Sisisky
Gunderson	McCrery	Skeen
Gutknecht	McDade	Skelton
Hall (OH)	McHale	Slaughter
Hall (TX)	McHugh	Smith (MI)
Hamilton	McInnis	Smith (NJ)
Hancock	McIntosh	Smith (TX)
Hansen	McKeon	Smith (WA)
Harman	McNulty	Solomon
Hastert	Metcalf	Souder
Hastings (WA)	Meyers	Spence
Hayes	Mica	Spratt
Hayworth	Miller (FL)	Stearns
Hefley	Minge	Stenholm
Heineman	Molinari	Stockman
Herger	Montgomery	Stump
Hilleary	Moorhead	Stupak
Hobson	Moran	Talent
Hoekstra	Morella	Tanner
Hoke	Murtha	Tate
Holden	Myers	Tauzin
Horn	Myrick	Taylor (MS)
Hostettler	Neal	Taylor (NC)
Houghton	Nethercutt	Tejeda
Hoyer	Neumann	Thomas
Hunter	Ney	Thornberry
Hutchinson	Norwood	Thurman
Hyde	Nussle	Tiahrt
Inglis	Ortiz	Torkildsen
Istook	Orton	Trafigant
Jacobs	Oxley	Upton
Johnson (CT)	Packard	Vucanovich
Johnson (SD)	Pallone	Waldholtz
Johnson, Sam	Parker	Walker
Johnston	Paxon	Walsh
Jones	Payne (VA)	Wamp
Kanjorski	Peterson (FL)	Watts (OK)
Kaptur	Peterson (MN)	Weldon (FL)
Kasich	Petri	Weldon (PA)
Kelly	Pickett	Weller
Kennelly	Pombo	White
Kim	Pomeroy	Whitfield
King	Porter	Wicker
Kingston	Portman	Wilson
Klecza	Poshard	Wolf
Klink	Pryce	Wyden
Klug	Quillen	Young (AK)
Knollenberg	Quinn	Young (FL)
Kolbe	Radanovich	Zeliff
LaFalce	Rahall	Zimmer

NOT VOTING—1

Dooley

□ 1516

Messrs. MONTGOMERY, ACKERMAN, and DE LA GARZA, Mrs. LOWEY, and Mr. GONZALEZ changed their vote from “aye” to “no.”

Ms. FURSE and Mr. FIELDS of Louisiana changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to H.R. 666, the Exclusionary Rule Reform Act. While its supporters would have us believe that this bill will simply broaden a

previously existing exception to the fourth amendment, it will, in reality, seriously damage a constitutional amendment that has protected Americans from unreasonable searches and seizures for over 200 years.

Simply put, Mr. Chairman, the fourth amendment places a check on the ability of the Government to arbitrarily search a person's home or person by requiring that a search warrant be issued by a neutral and detached magistrate. Since 1914, the Supreme Court has held that evidence obtained as the result of an illegal search must be excluded at trial.

Mr. Chairman, H.R. 666 removes this important constitutional safeguard by virtually eliminating the warrant requirement that the American Colonists demanded of the Constitution's Framers following their occupation by British soldiers. In spite of these origins, the fourth amendment has, in no way, lost its historical or legal relevancy. We need only look at the documented abuses from law enforcement jurisdictions all over the country to reaffirm the inherent protective value of the fourth amendment.

If by congressional mandate, the courts begin to admit evidence gathered in good faith but without a search warrant, there would be much less incentive for the police to obtain search warrants at all—thereby undermining the fundamental protection of the fourth amendment to the Constitution.

Mr. Chairman, the exclusionary rule is what protects all Americans against unreasonable searches and seizures and the invasion of privacy by law enforcement officers. It does not undermine the ability of the police to enforce the law; indeed, it has been part of the training given to all Federal law enforcement agents since 1914. The Directors of the FBI have endorsed the exclusionary rule and have stated that the rule does not hinder the FBI's work.

Mr. Chairman, the exclusionary rule works because it creates an incentive for law enforcement officers to know legal search and seizure standards. By passing this bill, law enforcement will actually have an incentive not to know the law.

In the rush to pass their legislative agenda in the first 100 days, the authors of this bill are asking us to sacrifice the constitutional safeguards that have protected all Americans for 207 years.

I urge all of my colleagues to oppose this attack on the fourth amendment and vote “no” on H.R. 666.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 666, the Exclusionary Rule Reform Act of 1995. Let me state from the beginning that I recognize the challenge we face in curbing crime in our Nation. In fact, I have been a longstanding advocate for substantial congressional action to reduce and prevent violence and crime. Nonetheless, Mr. Speaker, I cannot support this measure before us today because the very belief upon which our judicial system was created—protection of individual constitutional rights balanced with society's right to be free from harm—has yet to be achieved for many Americans.

Over the years, I have been a staunch supporter of crime control measures. I have patrolled our streets as part of Neighborhood Watch efforts. I have seen firsthand the effects that drugs and violence have had on our neighborhoods. Before I came to Congress I

was blessed with the opportunity to practice law in this great Nation. I have litigated civil rights issues before many courts. One of my most memorable experience is having argued *Terry v. Ohio*, 392 U.S. 1 before the U.S. Supreme Court in 1968. Because of these experiences, I feel that I cannot support the unbalanced approach that H.R. 666 represents.

While I agree that strong measures must be taken to curb the crime epidemic, I do not believe that such measures should undermine any individual's basic rights and constitutional liberties. My duty as a Member of Congress requires that I act in the best interest of the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold. We cannot, and should not, in an attempt to facilitate the prosecution of alleged criminals, be unfaithful to our responsibility to act in the best interest of the American people by disrespecting the founding document of this Nation—the fourth amendment of the U.S. Constitution. This shortsighted legislation will not only compromise Americans' constitutional rights, but will actually do very little to reduce crime or enhance the prosecution of crimes.

Mr. Chairman, the exclusionary rule was created in *Weeks v. United States*, 232 U.S. 383 (1994), where Justice William Day's opinion for a unanimous court concluded that the use of illegally obtained evidence by the Government was a clear "denial of the constitutional rights of the accused" (p. 398). The exclusionary rule was fashioned by the Supreme Court as the enforcement mechanism of the fourth amendment, which protects citizens against unreasonable searches and seizures. The exclusionary rule embodies our national principle of respect for the fundamental inalienable rights of all our citizens under the U.S. Constitution.

Since 1914, the exclusionary rule as we know it today is a mere shadow of the rule envisioned in the *Weeks* opinion. Over the years, the U.S. Supreme Court has established exceptions to the rule that have permitted more and more illegally obtained evidence to be used against accused criminals. One of the most prominent exceptions to the exclusionary rule is the good faith exception created by the court in *United States v. Leon*, 468 U.S. 897 (1984).

We must all remember that the fourth amendment, working in conjunction with the exclusionary rule, represents significant constitutional protection for anyone accused of a crime. As you know, being accused does not mean that you are guilty. Yet, the drafters of this current legislation, in their haste to sweep up criminals, have presented a law that treats the accused as if they were guilty. No American deserves to be treated as a criminal without the benefit of a trial.

Contrary to the assertions of the proponents of this legislation, the application of the exclusionary rule almost never prevents the prosecution of a case against an accused. A 1983 study by Thomas Y. Davies, entitled, "A Hard Look at What We Know (and Still Need To Learn) About the 'Costs' of the Exclusionary Rule" (1983), estimates that only 0.6 to 2.35 percent of all felony arrests are lost as a result of this rule. Thus the challenge to the exclusionary rule based on the risk of lost arrests is fueled by an ideological agenda that is hostile to our freedoms ensured by the fourth amendment.

Mr. Chairman, the bill before us today, the Exclusionary Rule Reform Act of 1995, codifies the good faith exception to the exclusionary rule, but will also make it more broad. Such an abdication of congressional responsibility will certainly undermine many of our most important efforts to protect the Constitutional rights of all Americans.

The stated purpose of the Exclusionary Rule Reform Act if to provide a statutory basis for the good faith exception in cases of searches with and without warrants. Under the good faith exception, evidence obtained in a search or seizure that violates constitutional protections would not be excluded if "the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment" to the Constitution.

The legislation to limit citizens' fourth amendment rights warps the Constitution to such an extent that the constitutionality of this provision is seriously in question. While I agree that Congress should continue to make significant strides to reduce crime, this proposed measure goes well beyond the legitimate objective of crime prevention and prosecution enhancement. In fact, this bill is specifically designed to inhibit the constitutional rights of the people of America by violating their fourth amendment rights. Justice Douglas eloquently warned us of the dangers involved in compromising the fourth amendment in his dissenting opinion in *Terry versus Ohio*:

To give the police greater power than a magistrate is to take a long step down the totalitarian path. Perhaps such a step is desirable to cope with modern forms of lawlessness. But if it is taken, it should be the deliberate choice of the people through a constitutional amendment.

Millions of arrests and searches are carried out by police each year in the United States. The fourth amendment, with its ban on unreasonable searches and seizures, is the constitutional provision that, more directly than any other, governs police conduct. This amendment is designed to preserve the most cherished values of a free society by striking a fair balance between society's demand for order, and individual rights.

It is my belief that our judicial system's major focus should be to protect its citizens from crime and violence. However, as a nation, we cannot afford to compromise our Constitutional rights in exchange for unconstitutional, excessive police state tactics. We all have an obligation to uphold the Constitution and protect the rights of all Americans to be free from unreasonable searches and seizures. I urge my colleagues to uphold our Constitution, protect the American people, and vote down this unconscionable invasion upon one of their most priceless constitutional guarantees.

The CHAIRMAN. If there are no further amendments, under the rule the Committee now rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOBSON) having assumed the chair, Mr. RIGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform, pursuant to House Resolution 61, he reported the bill back to the House with sundry amendments

adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate voice demanded on any amendment?

If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

Mr. CONYERS. Mr. Speaker, I withdraw the request for a recorded vote.

□ 1520

The SPEAKER pro tempore (Mr. HOBSON). The Chair advises the gentleman from Michigan [Mr. CONYERS] that a recorded vote has already been ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 142, not voting 3, as follows:

[Roll No. 103]

AYES—289

Allard	Clinger	Frisa
Andrews	Coble	Funderburk
Archer	Coburn	Gallegly
Armey	Collins (GA)	Ganske
Bachus	Combest	Geren
Baessler	Condit	Gilchrest
Baker (CA)	Cooley	Gillmor
Baker (LA)	Costello	Gilman
Ballenger	Cox	Goodlatte
Barcia	Cramer	Goodling
Barr	Crane	Gordon
Barrett (NE)	Cremeans	Goss
Bartlett	Cubin	Graham
Barton	Danner	Green
Bass	Davis	Greenwood
Bateman	de la Garza	Gunderson
Bentsen	Deal	Gutknecht
Bereuter	DeLay	Hall (TX)
Bevill	Deutsch	Hancock
Bilbray	Diaz-Balart	Hansen
Bilirakis	Dickey	Harman
Bliley	Dicks	Hastert
Blute	Dooley	Hastings (WA)
Boehlert	Doolittle	Hayes
Boehner	Dornan	Hayworth
Bonilla	Doyle	Hefley
Bono	Dreier	Heineman
Borski	Duncan	Herger
Brewster	Dunn	Hilleary
Browder	Edwards	Hobson
Brownback	Ehlers	Hoekstra
Bryant (TN)	Ehrlich	Hoke
Bunn	Emerson	Holden
Bunning	English	Horn
Burr	Ensign	Hostettler
Burton	Everett	Houghton
Buyer	Ewing	Hunter
Callahan	Fawell	Hutchinson
Calvert	Fields (TX)	Hyde
Camp	Flanagan	Inglis
Canady	Foley	Istook
Castle	Forbes	Jacobs
Chabot	Fowler	Johnson (CT)
Chambliss	Fox	Johnson (SD)
Chapman	Frank (MA)	Johnson, Sam
Christensen	Franks (CT)	Jones
Chrysler	Franks (NJ)	Kanjorski
Clement	Frelinghuysen	Kasich

Kelly	Nethercutt	Skeen
Kim	Neumann	Skelton
King	Ney	Smith (MI)
Kingston	Norwood	Smith (NJ)
Klink	Nussle	Smith (TX)
Klug	Ortiz	Smith (WA)
Knollenberg	Orton	Solomon
LaHood	Oxley	Souder
Largent	Packard	Spence
Latham	Pallone	Spratt
LaTourette	Parker	Stearns
Laughlin	Paxon	Stenholm
Lazio	Payne (VA)	Stump
Leach	Peterson (FL)	Stupak
Lewis (CA)	Peterson (MN)	Talent
Lewis (KY)	Petri	Tanner
Lightfoot	Pombo	Tate
Linder	Pomeroy	Tauzin
Lipinski	Porter	Taylor (MS)
Livingston	Portman	Tejeda
LoBiondo	Pryce	Thomas
Longley	Quillen	Thornberry
Lucas	Quinn	Thurman
Luther	Radanovich	Tiahrt
Manton	Rahall	Torkildsen
Manzullo	Ramstad	Traficant
Martini	Regula	Upton
Mascara	Riggs	Volkmer
Matsui	Roberts	Vucanovich
McCollum	Roemer	Waldholtz
McCrery	Rogers	Walker
McDade	Rohrabacher	Walsh
McHale	Ros-Lehtinen	Wamp
McHugh	Roth	Weldon (FL)
McInnis	Roukema	Weldon (PA)
McIntosh	Royce	Weller
McKeon	Salmon	White
McNulty	Sanford	Whitfield
Meyers	Saxton	Wicker
Mica	Scarborough	Wilson
Miller (FL)	Schaefer	Wise
Molinari	Schiff	Wolf
Montgomery	Seastrand	Wyden
Moorhead	Sensenbrenner	Young (AK)
Moran	Shadegg	Young (FL)
Morella	Shaw	Zeliff
Murtha	Shays	Zimmer
Myers	Shuster	
Myrick	Sisisky	

NOES—142

Abercrombie	Gutierrez	Owens
Ackerman	Hall (OH)	Pastor
Baldacci	Hamilton	Payne (NJ)
Barrett (WI)	Hastings (FL)	Pelosi
Becerra	Hefner	Pickett
Beilenson	Hilliard	Poshard
Berman	Hinchey	Rangel
Bishop	Hoyer	Reed
Bonior	Jackson-Lee	Reynolds
Boucher	Jefferson	Richardson
Brown (CA)	Johnson, E.B.	Rivers
Brown (FL)	Johnston	Rose
Brown (OH)	Kaptur	Roybal-Allard
Bryant (TX)	Kennedy (MA)	Rush
Cardin	Kennedy (RI)	Sabo
Chenoweth	Kennelly	Sanders
Clay	Kildee	Sawyer
Clayton	Klecicka	Schroeder
Clyburn	Kolbe	Schumer
Coleman	LaFalce	Scott
Collins (IL)	Lantos	Serrano
Collins (MI)	Levin	Skaggs
Conyers	Lewis (GA)	Slaughter
Coyne	Lincoln	Stark
Crapo	Lofgren	Stockman
DeFazio	Lowey	Stokes
DeLauro	Maloney	Studds
Dellums	Markey	Taylor (NC)
Dingell	Martinez	Thompson
Doggett	McCarthy	Thornton
Durbin	McDermott	Torres
Engel	McKinney	Torricelli
Eshoo	Meehan	Towns
Evans	Meek	Tucker
Farr	Menendez	Velazquez
Fattah	Metcalfe	Vento
Fazio	Mfume	Visclosky
Fields (LA)	Miller (CA)	Ward
Filner	Mineta	Waters
Flake	Minge	Watt (NC)
Foglietta	Mink	Watts (OK)
Ford	Moakley	Waxman
Frost	Mollohan	Williams
Furse	Nadler	Woolsey
Gejdenson	Neal	Wynn
Gephardt	Oberstar	Yates
Gibbons	Obey	
Gonzalez	Oliver	

NOT VOTING—3

Cunningham	Dixon	Gekas
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□ 1537

Mr. NEAL of Massachusetts changed his vote from "aye" to "no."

Mr. SAM JOHNSON of Texas and Mr. COSTELLO changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

EFFECTIVE DEATH PENALTY ACT OF 1995

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the order of the House of Tuesday, February 7, 1995, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 729.

□ 1539

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

□ 1540

The CHAIRMAN. Pursuant to the order of the House of Tuesday, February 7, 1995, the bill is considered as having been read the first time.

The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes and the gentleman from New York [Mr. SCHUMER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM]

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 729, the Effective Death Penalty Act of 1995, is one of the most important pieces of crime legislation that the 104th Congress will consider. It offers relief to State law enforcement officials, comfort and a chance for healing to crime victims, and enhanced credibility for the criminal justice system. And this bill even offers something for criminals, if we want to look at it that way.

By curtailing the seemingly endless appeals of death-row inmates, particularly those who have been there for a long period of time, H.R. 729 sends the clear message to criminals that the criminal justice system is not a game. It sends the message that if you do the crime, you do the time. It sends the message of swift and certainty of

punishment that has been missing from our criminal justice system for some time, and it goes a long way to restoring deterrence to the criminal justice system, which is a corner, a pillar of our entire criminal justice system, deterrence. Nothing is more important for public safety than to reaffirm that message, because far too many of today's criminals think that they can beat the system if they are ever caught.

Congress has been considering this reform for several years. Despite victories in the House and Senate going back as far as 1984, supporters of habeas corpus reform have not been able to overcome the well-positioned minority of Members who oppose reform. Mr. Chairman, it is my strong hope that those days are now finally over.

It is often said that the public does not understand what is meant by the term "habeas corpus." And that may be true to some extent. But the public does understand this: that convicted murderers on death row regularly make a mockery of the criminal justice system by using every trick in the book to delay imposition of their sentences. In many cases where the people's elected representatives have passed capital punishment laws, executions never occur because of endless appeals and lawsuits. People are sick and tired of the legal maneuvers of violent criminals. They want accountability.

H.R. 729 stands for the clear and simple proposition that there must be finality and accountability. The voices of victims have been heard. When this bill becomes law, no longer will the victims of horrible violent crimes wait for a decade or more for justice to be served. Victims will no longer experience the revictimization caused by endless litigation which continuously stirs up memories of the pain and agony caused by the original crime.

The bill before us today balances the need for finality and accountability with a firm regard for due process of law and full constitutional protections. Federal and State prisoners will have ample opportunity to challenge their conviction and sentence in both direct appeals and in collateral attacks.

The difference, however, would be this. Convicted criminals, particularly murderers on death row, will generally get only one opportunity to raise their claims in Federal court using habeas corpus petitions. Once the first petition is disposed of, further legal challenges must be based on newly discovered evidence pertaining to the prisoner's actual innocence of the crime.

The essence of H.R. 729 comes from the recommendations of the Habeas Corpus Study Committee, chaired a few years ago by retired Supreme Court Justice Lewis Powell. The Powell Committee established the basic quid pro quo approach to this bill with regard to death row inmates. If States provide legal counsel in State habeas review to indigent convicted murderers, even though such provision of counsel is not